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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

March 20, 2003

Ms. Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services and Wireline/Internet Access Services, CC Docket Nos. 01-337 and 02-33, 95-20, 98-10.

Dear Ms. Dortch:

On March 19, 2003, the undersigned and Dr. Lee Selwyn of Economics and Technology, Inc., on behalf of The Ad Hoc Telecommunications Users Committee ("Ad Hoc"), met with Jeffrey Carlisle. Senior Deputy Chief Wireline Competition Bureau; Carol Mattey, Deputy Chief Wireline Competition Bureau; Brent Olson, Deputy Division Chief Competition Policy Division; Cathy Carpino and Terri Natoli, to discuss the proceedings referenced above. The participants discussed the issues raised by Ad Hoc in its written pleadings filed in the referenced dockets. In addition, we discussed the materials attached hereto.

The first attachment summarizes the substance of Ad Hoc's previously-filed pleadings. The meeting participants discussed Tables 3 and 7 in the second attachment which is a declaration filed January 23, 2003, in the public record of the Commission's proceeding in RM No. 10593. The participants discussed the special access profit margin indicated in the third attachment which is a "Revenue Profile" produced by Verizon. Finally, the participants discussed the difference in relative size of the MSAs with Phase I and Phase II pricing flexibility under the Commission's rules. The MSAs are listed in the fourth attachment.

Pursuant to Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b), copies of this letter and attachments have been filed with the Office of the Secretary.

Sincerely,

Colleen Boothby

Colleen Boothby

Counsel for
Ad Hoc Telecommunications Users
Committee

Attachments

cc: Jeffrey Carlisle
Carol Mattey
Brent Olson
Cathy Carpino
Terri Natoli

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- Competition in broadband business markets has yet to develop
    - Member survey confirms little or no competition
    - Cable is not an option for business services
    - The BOCs can and do raise their prices when they get regulatory flexibility
    - BOCs are not competing out of region
- There is no evidence of competition in the record for either docket
    - No party to these proceedings has proffered evidence of competition in this market
    - No party has rebutted Ad Hoc's showing that competition does not exist
- End users need the protection of the Computer II/III rules
    - End users want to control their choice of CPE and ISPs
    - Business end users need the technological innovation and downward pricing pressure of open markets for CPE and information services
- The Commission must also
    - Enforce the non-discrimination, pricing. and tariffing requirements in the Act
    - Revive incentive regulation of ILEC prices for broadband business services
        - Initialize ILEC special access rates at the price cap-regulated levels in place before MSA pricing
        - Initiate and complete an X factor specification before the CALLS plan re-targets the X to GDP-PI in July 2004
    - Continue the ILECs' contract tariff authority so that ILECs and customers can negotiate to respond to competition if it emerges

ATTACHMENT 2

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of ATBT Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services	**RM No. 10593**

Reply Declaration

of

LEE L. SELWYN

on behalf of

ATBT Corp.

January *23,2003*

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services	**RM No. 10593**

REPLY DECLARATION OF LEE L. SELWYN

Introduction

Lee L. Selwyn. of lawful age, declares and says as follows:

1. My name is Lee L. Selwyn: I am President of Economics and Technology, Inc. ("ETI"), Two Center Plaza, Suite 400, Boston, Massachusetts 02108. ETI is a research and consulting firm specializing in telecommunications and public utility regulation and public policy. I have participated in proceedings before the Federal Communications Commission ("FCC" or "Commission") dating back to 1967 and have appeared as an expert witness in hundreds of state proceedings before more than forty state public utility commissions. My Statement of Qualifications is annexed hereto as Attachment I and is made a part hereof.

2. I have been asked by AT&T to review and analyze the various factual claims advanced by the RBOCs in support of their contention that reinstatement of price regulation for special

access services is not required. Specifically, the RBOCs have challenged evidence presented by AT&T in support of its *Petition* that special access prices in MSAs subject to Phase II pricing flexibility have increased relative to special access prices that remain subject to price cap regulation, that rates of return on special access services have risen to patently excessive levels, and that competition for special access services in areas subject to Phase II pricing flexibility is not sufficient to constrain RBOC exercise of market power with respect to these services. As I show in this declaration, these RBOC contentions are without merit and in no sense refute or otherwise undermine the factual basis for AT&T's *Petition*.

Summary

3. As revealed in the documentation supporting AT&T's initial petition, ample evidence exists that prices for special access services have increased in areas in which the RBOCs have been granted full Phase II pricing flexibility. In their comments regarding AT&T's evidence, the RBOCs launched a multi-faceted attack that surprisingly left untouched the most compelling piece of AT&T's evidence. its comparison of the prices for special access services tariffed in areas in which pricing flexibility has been granted to the prices that remain in effect in price caps regulated areas. In the material below, I provide further evidence of special access price increases through examination of the RBOCs' tariffs, and demonstrate that Verizon's defense of its price increases does not explain the increases that have actually occurred. I also provide evidence to refute the RBOCs' claim that CLECs have deployed or are in a financial position to deploy their own facilities to serve a substantial portion of the buildings occupied by special access customers. I establish. to the contrary, that competitively provided special access facilities are only available at an extremely small number of commercial buildings, compelling IXCs to acquire the vast majority of these services from the ILEC. Even in the most competitive MSA in the US, New York. where AT&T provides service at 3,613 different buildings, no AT&T or other CLEC facilities are available at 89.9% of building locations. Finally, I demonstrate that

the RBOCs' have produced very weak evidence in their attempts to discredit AT&T's analysis of special access rates of return based on data reported to the Commission under **ARMIS** and show that, in fact, ARMIS data provides a *conservative* estimate of RBOC rates of return **on** Special Access Services.

I. PRICING OF SPECIAL ACCESS SERVICES IN MSAs SUBJECT TO PHASE II PRICING FLEXIBILITY

RBOC comments deflect attention away from compelling price comparison data included in AT&T's Petition.

4. The basic premise upon which the FCC relied in establishing guidelines for Phase II pricing flexibility in CC Docket 96-262 was that if the required level of collocation of CLECs in ILEC central offices had been established, there would at that time be a sufficient level of competition in those markets to constrain ILEC market power and thereby obviate the need for continued price regulation of special access services.[1] On that basis, one would *expect* that where the conditions for Phase II pricing flexibility had been satisfied and that pricing flexibility had been implemented, special access prices in those areas would have actually decreased by a greater relative amount than in those (putatively less competitive) areas still subject to price cap regulation. Indeed, in their Reply Declaration, AT&T Declarants Ordover and Willig note specifically that the purported "need" to drop prices in response to competition was specifically advanced by the RBOCs as a basis for the pricing flexibility that they had sought.[2] That aside, with its *Petition* AT&T has provided detailed evidence demonstrating that not only have special access prices not decreased by a greater relative amount in MSAs subject to Phase II pricing flexibility than in areas that remain subject to price regulation, but that in fact under "pricing flexibility" the RBOCs have actually *increased* special access rates where permitted to do so.

5. While the RBOCs and their experts have gone to great lengths in their attempts to discredit the competition and rate of return (ROR) analyses proffered in support of AT&T's *Petition*, they have said little in regard to the *prima facie* evidence of increasing prices — the

1. *Pricing Flexibility Order,* 14 FCC Rcd. 14221 (1999).

2. Ordover/Willig Reply Decl., at para. 33.

comparison of price levels for price cap regulated services versus those for services where Phase **II** pricing llexibility has been granted.[3]

6. Vcrizon's is the only Commcnt that attempts **to** address AT&T's evidence that BOC special access prices have *increased* in those **MSAs** in which Phase **11** pricing flexibility has been allowed. Other RBOC comments either ignore AT&T's pricing data entirely, or mention it only in passing.[4] In Footnote 58 of its filing, Verizon claims that the changes in its special access prices represent a mixture of increases and decreases. While it is within the realm of possibility that prices for some elements of Vcrizon special access service in Verizon's Phase II areas did decline, our review of the tariffs failed to reveal any such instance. Apparently, the "mixture" of increases and decreases to which Vcrizon **was** referring in its footnote *58* consists of ***increases*** in those areas in which pricing flexibility has been granted and ***decreases*** in the remaining areas where special access rates remain subject **to** price cap regulation.

7. Specifically, Verizon claims that its price changes are part of an attempt to "expand the differential between zones 1. **2** and 3."[5] Analysis of Verizon's pricing data, however, proves this defense of its price changes to be untrue. **As** the tahle below demonstrates, Verizon has applied straight, across-the-board increases to the pricing flexibility price ranges for all three zones, such that the relative "ditferential between zones **I,** 2 and 3" has actually remained *unchanged* although the rate *levels* have risen. The sample data in the table below are based upon the pricing for **DS-3** single channels at an "initial" premises at month-to-month rates.

---

3. See Declaration of Joseph M. Stith, AT&T Petition.

4. See, e.g., the mention ofthe pricing evidence in Bell South's comments only in reference to a criticism of AT&T's ARMIS based analysis. BellSouth Comments at footnote 7.

5. Verizon Comments, at fn. 58.

Although limited to a single category of channel terminal prices, the results are consistent **with** the changer made to Verizon's other special access rate elements as well.

Table 1

Contrary to Its Claims, the Changes that Verizon has made to its Special Access Tariffs Do Nothing to "Increase the Differential" between Zone prices

Company Name	State	Zone/Band	Standard Pricing 'Initial Premises" DS3 Chan Term*	phase II Pricing Flexibility 'Initial Premises" DS3 Chan Term*	% by which phase II prices have been increased over Price Cap Level
Verizon	DC, DE, MD, NJ,	Zone 1/Band 4	$2,667 50	$3 025 00	13%
FCC Tariff No. 1	PA, VA, WV	Zone 2/Band 5	$2,800 88	$3,176.25	13%
		Zone 3/Band 6	$2,934 25	$3,327.50	13%
		d Zone 3/Band 6	10%	10%	
Verizon	MA				
FCC Tariff No. 11		Zone 1/Band 4	$2,31003	$2541 00	10%
FCC Tariff No 11		Zone 2/Band 5	$2,425 50	$2,668 05	10%
		Zone 3/Band 6	$2,541 00	$2,795 10	10%
Differential between Zone 1/ Band 4 and Zone 3/Band 6			10%	10%	
Verizon	NY, CT	Zone 1/Band 4	$2.31003	$2.541 00	10%
FCC Tariff No. 11		Zone 2/Band 5	$2,42550	$2,668 05	10%
		Zone 3/Band 6	$2,541 00	$2,795 10	10%
Differential between Zone 1/ Band 4 and Zone 3/Band 6			10%	loo,/o	
Verizon	ME, NH, RI, VT	Zone 1/Band 4	$2.541 00	$2.795 10	10%
FCC Tariff No. 11		Zone 2/Band 5	$2.541 00	$2,795 10	10%
		Zone 3/Band 6	$2.541 00	$2,795.10	10%
Differential between Zone 1/ Band 4 and Zone 3/Band 6			0%	0%	

Note *: This is the monthly rate for a primary location with a single DS3 CT.

Source: The Verizon Telephone Companies Access Service Tariff F.C.C. No. 11, section 31.7.9 (A) (1) C effective April 28, 2001, Section 30.7.9(A)(1)C, effective November 8, 2002, The Verizon Telephone Companies access Service tariff F.C.C. No 1, section 7.5.9(B)(1)(d), effective January 5, 2002.

8. Vcrizon goes on to suggest that another reason for its price changes is an attempt to bring the rates between Verizon North (the former NYNEX states) and Verizon South (the former Bell

Atlantic. stales) inorc in line.[6] In point of fact, howcvcr, as the data on the table below demonstrates, the gap between the prices charged by Verizon South and Verizon North is greater in areas in which pricing flexibility has been granted than it is elsewhere.

Table 2

Contrary to Its Claims, the Changes that Verizon has made to its Special Access Tariffs Do Nothing to Bring the Prices in Verizc North and Veriz South Territories "M e in Line"

Company Name	State	Zone/Band	Standard Pricing "Initial Premises" DS3 Chan Term •	Phase II Pricing Flexibility "Initial 'remises" DS3 Chan Term *
Verizon FCC Tariff No 1	DC,DE, MD, NJ PA, VA, WV	Zone 1/Band 4	$2,667.50	[illegible]
		Zone 2/Band 5	$2,800.88	[illegible]
		Zone 3/Band 6	$2,934.25	$3,327.50
				$2,541.00
Verizon FCC Tariff No 11	MA, NY, CT	Zone 1/Band 4	$2,310.00	[illegible]
		Zone 2/Band 5	$2,425.50	[illegible]
		Zone 3/Band 6	$2,541.00	$2,795.10
				$2,795.10
Verizon FCC Tariff No 11	ME, NH, RI, VT	Zone 1/Band 4	$2,541.00	$2,795.10
		Zone 2/Band 5	$2,541.00	$2,795.10
		Zone 3/Band 6	$2,541.00	$2,795.10
Amount by which Verizon South rate exceeds Verizon N(			ı (MA, NY. CT)	
		All Zones	15%	19%
Amount by which Verizon South rate exceeds Verizon N(			ı (ME, NH, RI, VT)	
		Zone 1/Band 4	10%	14%
		Zone 2/Band 5	10%	14%
		Zone 3/Band 6	15%	19%

Note *· This is the monthly rate for a primary location with a single DS3 CT.
Source: The Veriron Telephone Companies Access Service Tariff F.C.C. No. 11. section 31.7.9(A) (1) C effective April 28, 2001, Section 30.7.9(A)(1)C, effective November 8,2002. The Verizon Telephone Companies Access Service Tariff F.C.C.No. 1, Section 7.5.9(B)(1)(d), effective January 5, 2002.

6. Verizon Coinments. at fn. 58

9. Particularly noteworthy in Verizon's case are the phenomenal increases in the price for Verizon South DS3 channel terminations at "secondary premises,"[7] an entire class of customer locations (not limited to specific geographic areas within an MSA) that is less likely to have competitive options available to it. While the variance between prices for a "primary premises" DS-3 channel termination in the Verizon South FCC Tariff No. 1 offered at standard price caps regulated prices and that available in Phase II MSAs is 13% (between $350 and $400 more in Phase II areas depending upon density zone), the variance for "secondary premises" channel terminations is 71% (ranging between $1,210 and $1,331 more in Phase II areas). Verizon's gap in the price for a DS-3 channel termination located in density Zone I in the most competitive MSAs in Verizon South territory (encompassing the downtown areas of places like Pittsburgh, PA and Richmond, VA) from the level of $1,700.96 found in the price caps regulated areas to $2,911.37 — a gap of more than 70% — does not begin to be justified by any of the explanations being advanced in Verizon's comments.

7. While the definition of a secondary premises in Veriron's tariff (at Verizon FCC No. 1, Section 7.4.1.A.1) is rather unhelpful, a full reading of the rate regulations reveals rather clearly that the "primary premises" is an IXC POP, and the "secondary premises" is a end user customer premises.

Table 3

The extraordinary *increases* in phase II prices for secondary Premises DS3 Channel Terminations in Verizon South Territory are not explained by a of the justifications fered by Verizon

Company Name	State	Zone/Band	Standard Ricing "Secondary Premises" DS3*	phase II Pricing Flexibility "secondary Premises" DS3*	% by which phase II prices have been increased over Price cap Level
'erizon	DC, DE, MD, NJ,	Zone 1/Band 4	$1,700.96	$2,911.37	71%
CC Tariff No. 1	PA, VA, WV	Zone 2/Band 5	$1,786.01	$3,056.94	71%
		Zone 3/Band 6	$1,871.03	$3,202.51	71%
)ifferential between Zone 1/ Band 4 and Zone 3/Band			10%	10%	
'erizon	MA, NY, CT	Zone 1/Band 4	$1,700.96	$1,871.06	10%
CC Tariff No. 11		Zone 2/Band 5	$1,786.01	$1,964.61	10%
		Zone 3/Band 6	$1,871.06	$2,058.17	10%
)ifferential between Zone 1/ Band 4 and Zone 3/Band			10%	10%	

lote *: i: i: th monthly rate for a secondary location DS3 CT.

ource: The Veri on Telephone Companies Access Service Tariff F.C.C. No. 1, section 31.7.9 (A) (1) C effective pril 28, 2001, Section 30.7.9(A)(!)C, effective November 8, 2002, The Verizon Telephone Companies Access Servic ariff F.C.C. **No.** 1, Section 7.5.9(B)(1)(d), effective January 5, 2002.

10. Verizon has increased its prices for channel terminations in Phase II pricing areas virtually across-the-board, while keeping the prices for the transport component constant. None of the justifications advanced by Verizon at footnote *58* of its Comments — *viz.:* increasing the differentials among Zones 1, 2 and 3, rationalization of Veriron North and Verizon South rates, and the claim that the channel termination rate increases applied only to its month-to-month rates and not to its Contract Tariff rates — adequately account for this change. As shown in Table 4 below, using month-to-month prices for a single DS-3 as an example once again, the portion of the total price for a two-ended access circuit with 10 miles of associated interoffice transport increased by 36%, while the transport component itself remained unchanged. For **DS-l** circuits, Verizon has raised channel terminations in some Phase II areas by up to 24%, while increasing

transport by only 4%.[8] The price of a full DS-1 circuit with 10 miles of transport has increased almost 11%, with channel termination accounting for over 46% of the circuit price.[9]

Table 4

Verizon has limited most of the increases in its Phase II Tariffs to Channel Terminations, leaving the prices for Transport Price Caps levels

	Standard Pricing	Phase II Pricing	% by Which Phase II Exceeds Standard Pricing
VZ-South - Zone *1/Band 4*			
Initial Premises CT	$2,667 50	$3,025.00	13%
Secondary Premises CT	$1,700 96	$2,911.37	71%
Transport Fixed Charge	$825.00	$825.00	0%
Transport Mileage: 10 miles	$1,550 30	$1,550.30	*0%*
Total Circuit Price	$6,743 76	$8.311.67	23%
CT Portion of Circuit Price	$4,368.46	$5,936.37	36%
VZ-North - Zone *3/Band* 6			
Initial Premises CT	$2,541.00	$2,795 10	10%
Secondary Premises CT	$1,871.06	$2,058.17	10%
Transport Fixed Charge	$825.00	$825.00	0%
Transport Mileage 10 miles	$1,550 30	$1,550.30	0%
Total Circuit Price	$6,787.36	$7,228.57	7%
CT Portion of Circuit Price	$4,412.06	$4,853.27	10%

Source. The Verizon Telephone Companies Access Service Tariff F.C.C. No. 11. section 31.7.9(A) (1) C effective April 28, 2001, Section 30.7.9(A)(1)C, effective November 8, 2002, The Verizon Telephone Companies Access Service Tariff F.C.C. No 1, Section 7.5.9(B)(1)(d). effective January 5, 2002.

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8 The Verizon Telephone Companies Access Service Tariff, F.C.C. No. 11, sections 31.7.9 (A) (1) (a) effective July 2, 2002 and 30.7.9 (A) (1) (a), effective January 5, 2002; The Verizon Telephone Companies Access Service Tariff, F.C.C. No. 11, sections 31.7.9 (B) (2) and 30.7.9 (B) (2), effective January 5, 2002.

9. DS-1 Channel Termination in Massachusetts Zone 2/Band 5 increased from a standard rate ofR228.25 to $283.55. Transport charges increased from $53.00 to $55.00, with a per mile transport charge of $26.30 standard rate, and $27.37 Phase II rate.

11. Verizon also indicates that an analysis of prices offered in areas in which pricing flexibility har been granted that is based upon the non-contract based prices is flawed because Verizon has filed Contract Tariffs and those Contract 'Tariff based price levels are the pertinent price? While I dispute Verizon's contention that any pricing analysis must be based upon Contract Tariff based prices, I nonetheless evaluated whether the existence of the Contract 'Tariffs affected the conclusions yielded by AT&T's initial analysis. The answer is that it does not.

12. As of the date that this declaration was being prepared, more than eighteen months after it had been granted pricing tlexibility. Verizon had filed only two Contract Tariffs. And although pricing tlexibility has been granted in most of the largest of Verizon's markets, the magnitude of spccial access rcvenues covered by those two Contract Tariffs represent less than 10% of Vcrizon's Special Access revenues as reported for calendar year 2001, suggesting that thcy likely reprcscnt an even smaller portion of Special Access revenues today."

13. Moreover, the level of discount being offered through each of Veriron's Contract Tariffs (structured as a discount off of the Phase II general price levels) does not necessarily even compensate for the increases found in the pricing tlexibility tariffs. In other words, even with the Contract Tariff discounts, the prices lor many pricing flexibility services are still above the levels available for the same services in price cap regulated areas. As the table below illustratcs, the application of "incentives" available through Verizon's Contract Tariff Option I. CT Option 1 rcquircs commitment to deliver $301-million in special access billing during the first

10. Verizon Comments, at fn. 58.

11. Based upon the overall volume threshold and minimum traffic requirements found in the two Vcrizon Contract Tariffs, the aggregate commitment to service is in the range of approximately $400-million per year for both contracts combined across all regions. See, Verizon FCC No. I, Section 21, Verizon FCC No. 11, Section 32, and Veriron FCC No. 14, Section 21. Verizon's reported special access revenues per ARMIS for 2001 were in excess of $4.7-billion.

year of the contract (escalating to $386-million by the third year), and offers "incentives" for delivery of Product Suite traffic as well. The relevant Product Suite in CT 1 is DS3 Service, and for year one, the customer must deliver a minimum of $132-million in DS3 billing, with the discounts maxing out at $137-million in billing. Using the examples in the tariff, the total incentive discount available for non-US3 services (based upon annual billing of $340-million) is 2.7%. The incentive discount for the Product Suite, assuming delivery of the $135.5-million in DS3 billing used in the tariff example, works out to 5.4%. Combined, the "Product Suite" and Annual incentives available for DS3 services is equal to 8.1%. Compare this to the 10% and 13% increases in the prices for US3 month to month channel terminals, or the 71% increase in the secondary channel termination rate in the Verizon South Phase II MSAs, and the discount offered through the Contract Tariff is less than overwhelming.

Table 5

Derivation of Credit Percentages from Contract Tariff Option 1 in Verizon Access Tariffs FCC 1, FCC 11 and FCC 14

	Annual Incentive Component					
				Year 1 credits		
(a)	Total Revenues in Tariff example	$	340,000,000			
(b)	Fixed Incentive Year 1	$	3,800,000	$	3,800,000	
(c)	Tier 1 Discount (applies on $301 to $325 million)		10%	$	2,400,000	
(d)	Tier 2 Discount (applies on $s above $325-million)		20%	$	3,000,000	
(e)	Total Annual Incentive Credit					$ 9,200,000
(f)	Annual Incentive Credit as % of Billing		2.7%			
	Product Suite Incentive					
	Total Revenues in Tariff example	$	135,500,000			
	Level 6 (product suite billing >$137-mil)	100% of annual incentive				
	Level 5 (product suite billing between $136- and 137-mil)	90% of annual incentive				
	Level 4 (product suite billing between $135- and 136-mil)	80% of annual incentive		$	7,360,000	
	Total Product Suite Incentive Credit					$ 7,360,000
	Product Suite Incentive Credit as % of Product Suite Billing		5.4%			
	Total Incentive % on DS3 Product Suite		8.1%			
	Total Incentive % on other Special Access Products		2.7%			

Source: Verizon FCC # 1, Section 21, pages 21-12 - 21-14, Verizon FCC #11, Section 32, pages 32-11 - 32-13, and Verizon FCC # 14, Section 21, pages 21-11 - 21-13.

14. Despite their professed interest in engaging in Contract Tariffs as a specific response to the compelition that they purport to confront, the other RBOCs also entered into only a handful of Contract Tariffs during 2002. Contract Tariffs in the SBC companies (Southwestern Bell, Pacific Bell. Amcritech and SNET combined) at first glance appear to be somewhat more prevalent. Across the entire territory, ten different Contract Tariffs have been filed, nine of which were tiled in 2002. However, of those nine 2002 Contract Tariffs, six are essentially term plans for multiplexed *DS-0* to DS-I interoffice transport, and offer no pricing concessions for anything else.[12] Similarly, BellSouth has only tariffed ten custom contracts, half of which were executed during 2002.[13] As of the date of this declaration, Qwest had not executed any Special Access Contract Tariffs.[14]

15. Many ofthe Contract Tariffs that have been filed are restricted to limited geographic areas. Thus. despite the existence of Contract Tariffs, there are MSAs where Phase II pricing flexibility has been granted but where no services are currently being provided or offered pursuant to a Contract Tariff. As an example, a review ofthe ten Contract Tariffs filed by BellSouth reveals that although full Phase II pricing tlexibility has been granted in the Columbia, SC. Evansville, KY. Owensboro, KY and Lafayette, LA MSAs, not one of BellSouth's Contract Tariffs offers contract based pricing in those MSAs. One of the other contracts applies in only eight of BellSouth's thirty Phase II pricing flexibility MSAs, while another is limited to eleven, and a third to eighteen out of the full thirty.

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12. SWBT Tariff FCC No. 73 - Section 41, Ameritech Tariff FCC No. 2. Section 22 and *Pacific Bell Tariff* FCC No. 1, Section 33.

13. BellSouth Tariff' FCC No. 1, Section 25.

14. Qwest Tariff FCC No. 1, Section 24.